

EXHIBIT 2003

Appeal Nos. 20-1046, 2050

**United States Court of Appeals
for the Federal Circuit**

KYOCERA SENCO INDUSTRIAL TOOLS INC., fka Kyocera Senco
Brands, Inc.,
Appellant,

v.

INTERNATIONAL TRADE COMMISSION
Appellee,

KOKI HOLDINGS AMERICA LTD., fka Hitachi Koki U.S.A. Ltd.,
Intervenor.

KOKI HOLDINGS AMERICA LTD., fka Hitachi Koki U.S.A. Ltd.,
Appellant,

v.

INTERNATIONAL TRADE COMMISSION
Appellee,

KYOCERA SENCO INDUSTRIAL TOOLS INC., fka Kyocera Senco
Brands, Inc.,
Intervenor.

Appeals from United States International Trade Commission
Investigation No. 337-TA-1082

KOKI HOLDINGS AMERICA LTD. REPLY BRIEF

(See Inside Cover For Appearances)

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‘displacement volume.’” (Kyocera Br. at 34) However, the appropriate inquiry is not whether the cylinder has a volume—there is no dispute that it does. Rather, the pertinent question is what is the specific “volume” that is recited in the Asserted Claims?

The answer to that question is straightforward. The only “volume” of the hollow cylinder recited in the Asserted Claims of the ’718 patent is the “displacement volume” of the “hollow cylinder.” (Appx577(37:63-65), Appx578(39:43-45), Appx579(41:6-8) (’718 patent).) The claims confine the “displacement volume” to only that region “created by the stroke of the piston” (*id.*), meaning it includes only the volume through which the piston moves from its upper position to its driven position (*id.*; Appx1353 at 262:19–22 (Tr. Pratt).)

The specification further confirms that the volume of the cylinder is the “displacement volume.” With respect to the cylinder, the only volume discussed in the specification is the “displacement volume” of the cylinder. (See Appx563(9:62-65) (“the portion to the interior of the cylindrical wall 70 forms a displacement volume that is created by the stroke of the piston 80”); *see also* Appx570(23:4-6).) No other volumes are discussed in the specification with respect to the cylinder, let alone a

different method of determining the boundaries of the claimed volume of the cylinder.

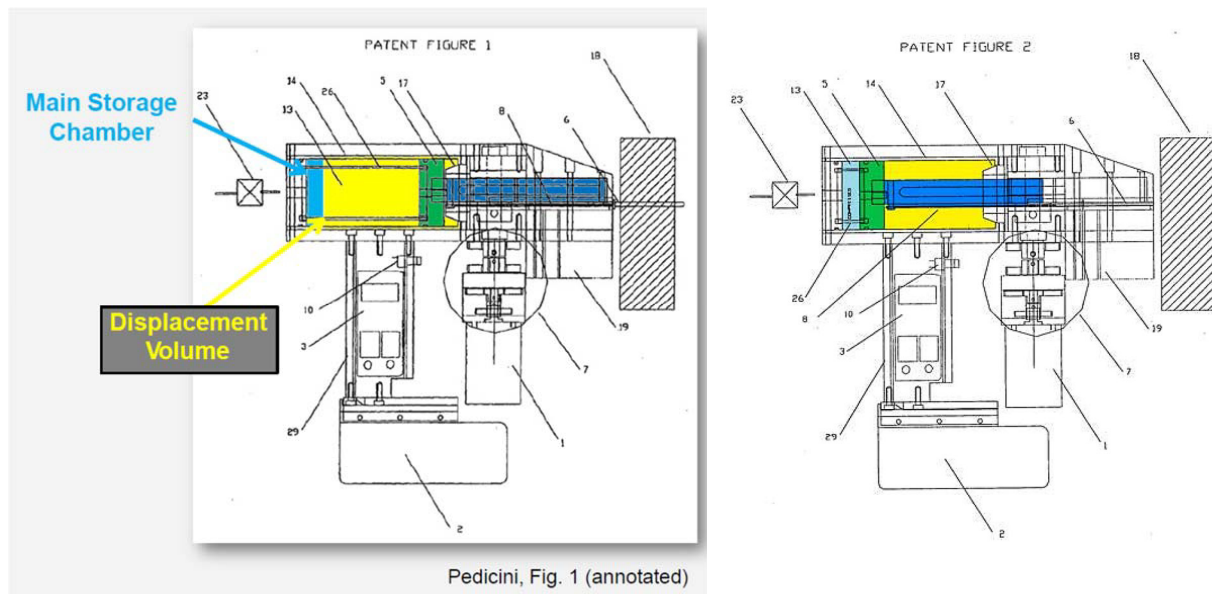
Finally, Kyocera’s argument that Koki is trying to challenge a stipulated claim construction on appeal has no merit. Rather, it is Kyocera that is misusing the agreed construction, which is evident from its assertion that “Pedicini lacks the required, separate ‘hollow cylinder.’” (Kyocera Br. at 39.) Yet the agreed construction *does not require a separate “hollow cylinder,”* but instead requires a separate volume. And Kyocera argument that the “main storage chamber” cannot be within the “hollow cylinder” contradicts the claim language, which says that the hollow cylinder “*contain[s]* a displacement volume” and therefore allows for additional, separate volumes in that cylinder, including the main storage chamber. *See Mars, Inc. v. HJ Heinz Co.*, 337 F.3d 1369, 1475–76 (Fed. Cir. 2004) (“‘containing’ is synonymous with ‘comprising’ and ‘including.’”); MPEP § 2111.03.

2. Koki’s Interpretation Does Not Read Out the “Hollow Cylinder” Limitation

Kyocera contends that Koki’s interpretation reads out the separate “hollow cylinder” limitation because Pedicini would only have a “main storage chamber” and a “displacement volume.” (Kyocera Br. at 36-38.)

But this is not true. Pedicini separately illustrates “a hollow cylinder comprising a cylindrical wall with a movable piston therewithin, said hollow cylinder containing a displacement volume created by a stroke of said piston” and “a main storage chamber that is in fluidic communication with said displacement volume of the cylinder.”

With reference to the images below, Dr. Vallee testified that Pedicini discloses a cylinder 14 with a piston 5 (green) that creates a displacement volume (yellow) when the piston moves within the cylinder. (Appx1007-1008(Q/A 297) (Vallee Testimony) citing Appx2615 (annotated version of Pedicini at Fig. 1).) He also testified that Pedicini’s main storage chamber (light blue) is directly adjacent to the displacement volume of the cylinder (yellow). (Appx1008-1009(Q/A 298) (Vallee Testimony) citing Appx2616 (annotated version of Pedicini at Fig. 1).)



(Appx2616 (left, annotated version of Pedicini at Fig. 1); Appx2461, Appx2468(¶ [0034]) (right, annotated version of Pedicini at Fig. 2).)

Dr. Vallee’s interpretation is consistent with the plain language of the claim. The claimed “hollow cylinder” includes (1) a “cylindrical wall,” (2) with a “moveable piston therewithin,” and (3) “a displacement volume created by a stroke of said piston.” (Appx557 (37:62-65); Appx578(39:42-45; Appx579(41:5-13).) Specifically, Dr. Vallee identified the claimed cylindrical wall in Pedicini as “cylinder 14”, the movable piston therewithin as “piston 5” and the displacement volume as the volume through which the piston 5 moves from its lower position to its upper position (colored in yellow). (Appx1007-1009(Q/A 297-298) (Vallee

Testimony); Koki Br. at 84.) Despite being discussed in Koki's Opening Brief, Kyocera ignores this evidence in its brief.

The volume identified in light blue as Pedicini's main storage chamber includes none of those three elements – it has no movable piston within it, it is not a cylindrical wall (or any other structure, since it is a volume), and it is not a displacement volume (since the piston stroke does not reach it). Rather, the region in light blue is a chamber that is distinct from the displacement volume of the hollow cylinder and contains part of the working air volume during operation. (Appx1008-1009(Q/A 298) (Vallee Testimony); Appx1353-1354(262:23–263:1 (Tr. Pratt)) (Kyocera expert admitting region above piston in Pedicini is not “displacement volume”; *see also* Koki Br. at 85).) Koki's interpretation therefore does not read out any limitations from the asserted claims.

3. Neither Kyocera Nor the Commission Dispute The Asserted Claims Are Invalid Under Koki's Proposed Interpretation

As explained in Koki's Opening Brief at 87, neither Kyocera nor the Commission dispute that the obviousness combination discloses all of claim limitations other than “main storage chamber” and a person of ordinary skill in the art would have been motivated to combine Pedicini